

REMARKS/ARGUMENTS

In this Second Amendment After Final Under 37 C.F.R. § 1.116 ("Second Amendment After Final"), Applicants propose to amend claims 14 and 15 in order to place the claims in better form for consideration on appeal and to improve clarity. No new matter is introduced.

No amendments are made in response to the rejection under 35 U.S.C. § 103(a).

Prior to entry of the Second Amendment After Final, claims 1-22 were pending in the application. After entry of the Second Amendment After Final, claims 1-22 remain pending in the application.

In the Second Final Office Action ("Second FOA"), the Examiner objected to claim 16; and rejected claims 14 and 15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0003837 A1 to Kudou ("Kudou") in view of U.S. Patent No. 5,742,347 to Kandlur et al. ("Kandlur"). Applicants respectfully traverse the rejection under 35 U.S.C. § 103(a).

The Examiner also allowed claims 1-13 and 17-22. Applicants gratefully acknowledge the Examiner's allowance of claims 1-13 and 17-22.

Additionally, the Examiner stated that claim 16 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Applicants gratefully acknowledge the Examiner's statement that claim 16 would be allowable.

Allowed and Allowable Claims

In allowing claims 1-13 and 17-22 and indicating that claim 16 would be allowable, the Examiner provided a “statement of reasons for the indication of allowable subject matter”, indicating that the “independent claims identify [a] uniquely distinct feature ‘. . . determining a bit rate using size information from an intra-coded picture of a first subgroup of pictures in the group of pictures received from the sorting unit, and setting bit rates of next subgroups of pictures using the determined bit rate’”. Second FOA, p. 3 (emphasis omitted).

Applicants understand the Examiner’s statement of reasons for the indication of allowable subject matter to mean that the independent claims are allowed at least because the cited art fails to anticipate or render obvious the following recitations: “determining a bit rate using size information from an intra-coded picture of a first subgroup of pictures in the group of pictures received from the sorting unit, and setting bit rates of next subgroups of pictures using the determined bit rate” (claim 1); “determining size information from the intra-coded picture of a first subgroup of pictures in the group of pictures” and “determining a bit rate from the size information, and setting bit rates required for encoding the predictive-coded pictures of next subgroups of pictures contained in the group of pictures into intra-coded pictures, using the determined bit rate” (claim 8); “determining at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received and setting the at least one bit rate

for next subgroups of pictures” (claim 12); “determining at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received and setting the at least one bit rate for next subgroups of pictures” (claim 13); “determines at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received, sets the at least one bit rate for next subgroups of pictures” (claim 17); and “determining at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received” and “setting the at least one bit rate for next subgroups of pictures” (claim 18).

Similarly, Applicants understand the Examiner’s statement of reasons for the indication of allowable subject matter also to mean that dependent claims 21 and 22 are allowed at least because the cited art fails to anticipate or render obvious the following recitations: “determines the bit rate using the size information from the picture of the first type contained in a first subgroup within the at least one group of pictures received and setting the bit rate for next subgroups of pictures” (claim 21); and “determines the bit rate using the size information from the picture of the first type contained in the first subgroup within the at least one group of pictures received” and “sets the bit rate for the next subgroups of pictures” (claim 22).

Entry of Second Amendment After Final

Applicants submit that the proposed amendments to claims 14 and 15 do not raise new issues that would require further consideration and/or search, and do not raise the issue of new matter. Additionally, Applicants submit that the proposed amendment to claims 14 and 15 place the application in better form for appeal by materially reducing or simplifying the issues for appeal. Therefore, Applicants submit that the Second Amendment After Final should be entered and considered by the Examiner.

Incorporation of Previous Arguments by Reference

In addition to the arguments presented below, Applicants specifically incorporate by reference the arguments made in the Amendment Under 37 C.F.R. § 1.111 filed on February 19, 2008 ("First Amendment"); and the Amendment After Final Under 37 C.F.R. § 1.116 ("First Amendment After Final") filed on July 28, 2008.

Drawings

In the First Amendment, Applicants noted that the Form PTOL-326 in the Office Action mailed on November 16, 2007, did not indicate the status of the drawings filed on April 23, 2004.

In the First Amendment After Final, Applicants noted that the Form PTOL-326 in the Final Office Action mailed on May 28, 2008 ("First FOA") also did not indicate the status of the drawings filed on April 23, 2004.

In this Second Amendment After Final, Applicants note that—once again—the Form PTOL-326 in the Second FOA does not indicate the status of the drawings filed on April 23, 2004. Thus, that status remains unresolved.

As a result, Applicants reiterate for a second time their request that the Examiner indicate the status of the drawings in the next paper mailed by the U.S. Patent and Trademark Office (“USPTO”).

Rejection Under 35 U.S.C. § 103(a)

Applicants submit that the Office Action fails to establish a prima facie case of obviousness for at least the following reasons.

First, one of ordinary skill in the art would not be motivated to combine Kudou and Kandlur because these documents attempt to solve significantly different problems. Kudou is directed to “synthesizing moving picture data and voice data” (Kudou, p. 2, [0022]) when the reproduction time for the moving picture and the voice data “differ from each other in [] length” (id., p. 2, [0022] and p. 3, [0032] – [0041]) and the “reproduction time for the moving picture data is found to be shorter” (id., p. 3, [0041]). In contrast, Kandlur is directed to transforming the MPEG “standard compressed stream” into a “local form [that] is optimized to support interactive playout features such as backward play, fast-backward play, etc.” Kandlur, c. 2/ll. 54-58.

Second, although Kandlur discusses I-frames, P-frames, and B-frames, Applicants submit that Kudou does not. Instead, Applicants submit that the disclosure of Kudou is effectively limited to generic moving picture data. Thus,

Applicants submit that the Second FOA's disingenuous statement that Kudou "does not teach an encoding unit for converting a second picture type into the first picture type using the set bit rate" (Second FOA, p. 2) ignores the reality that Kudou does not disclose multiple picture types.

Third, Kandlur converts P-frames to I-frames after the P-frame is retrieved, decompressed, and played out. Kandlur, c. 5/ll. 13-23. On the other hand, Kudou discloses padding its generic moving picture data (when the reproduction time for the moving picture data is found to be shorter than the reproduction time for the voice data, as discussed above) with all black pixels during compression. Kudou, p. 2, [0011] and p. 3, [0045]. Thus, Applicants submit that Kudou and Kandlur deal with inverse portions of the data compression and decompression processes.

Fourth, the "bit rate generated per second" that is calculated by Kudou corresponds to "an amount of data after being compressed". Kudou, p. 3, [0046]. In contrast, Kandlur converts P-frames to I-frames after the P-frame is retrieved, decompressed, and played out. Kandlur, c. 5/ll. 13-23. Thus, Applicants submit that the bit rate of Kudou is significantly different than any bit rate that might be disclosed in Kandlur.

Fifth, Applicants submit that claims 14 and 15 do not recite "converting a second picture type into the first picture type with a given bit rate" (emphasis added), as effectively alleged on page 2 of the Second FOA. Instead, claims 14

and 15 recite “converting a second picture type into the first picture type using the set bit rate” (emphasis added).

Sixth, Applicants submit that column 5/lines 13-23 of Kandlur (reproduced below) does not appear to disclose “converting a second picture type into the first picture type using the set bit rate” (emphasis added), as recited in claims 14 and 15.

In order to facilitate backward playout, the present invention performs a transformation of the standard MPEG encoded stream into a local compressed form. Specifically, after a P frame is retrieved, decompressed and played out, it is encoded an I frame by the encoder 508 and stored it back to the secondary storage 504. Since this P-I conversion is performed after a P frame is decompressed and played out, there is no extra cost required for decoding. More importantly, since there is no motion estimation and compensation required for compressing a single frame into an I frame, this I frame encoding can be done very efficiently.

Kandlur, c. 5/ll. 13-23.

For at least these reasons, Applicants submit that the Second FOA fails to establish a proper prima facie case of obviousness of claims 14 and 15 under 35 U.S.C. § 103(a) over Kudou in view of Kandlur. And at least partially as a result, Applicants submit that independent claims 14 and 15 are patentable under 35 U.S.C. § 103(a) over Kudou in view of Kandlur.

Applicants further submit that dependent claim 16 is patentable under 35 U.S.C. § 103(a) over Kudou in view of Kandlur, at least for the same reasons that claim 15 is patentable, from which claim 16 directly depends.

Request for Reconsideration and Allowance

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of each of claims 1-22 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Director of the USPTO is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; in particular, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By _____

John A. Castellano, Reg. No. 35,094

P.O. Box 8910
Reston, VA 20195
703.668.8000

JAC/LFG:hcw